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OFFICE OF PETITIONS

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In re Application of : DECISION
HAWKINS et al. : ON PETITION
Application No. 10/614,842 :
Filed: July 8, 2003 :
Attorney Docket No. L-0170.41(CON) :

This is a decision on the petition filed August 3, 2006, which is being treated as a request under 37 CFR 1.181 (no fee) for withdrawal of the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**. Any possible holding of abandonment is vacated, and this application restored to pending status.

The application purportedly became abandoned for failure to reply in a timely manner to a non-final Office action mailed July 13, 2004, which set a shortened statutory period for reply of three (3) months. A Notice of Abandonment has not been mailed. The petition states that a response to the July 13, 2004 office action was transmitted to the Office by facsimile on August 9, 2004 and includes a copy of the previously transmitted amendment. Page 5 of the amendment includes a certificate of transmittal that the correspondence was faxed on August 9, 2004. A copy of the sending unit's report confirming transmission was also included. Petitioner also provided an explanation of how petitioner became aware that the Office had no evidence of receipt of the August 9, 2006 amendment on August 2, 2006, and a statement from petitioner, which attests to the satisfaction of the Director to the previous timely transmission on August 9, 2004. Accordingly, the evidence submitted adequately satisfies the requirements of 37 CFR 1.8(b), and the amendment is considered timely filed. Any possible holding of abandonment is withdrawn, and this application is recognized as never having been abandoned in the first instance.

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

The application matter is being forwarded to Office of Patent Publications.

Frances Hicks
Frances Hicks
Petitions Examiner
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